



CITY OF HAYWARD AGENDA REPORT

PLANNING COMMISSION

MEETING DATE 02/24/00

AGENDA ITEM 1

TO: PLANNING COMMISSION

FROM: Planning Manager

SUBJECT: USE PERMIT 94-57 - Paula Lafferty (applicant), Dr. Dharam Salwan (owner) - Status Report on the Kennel Operation - The Kennel is Located at 619 Greeley Court, Off Mission Boulevard (Just North of Overhill Drive) in a Neighborhood Commercial (CN) District.

RECOMMENDATION:

It is recommended that the Planning Commission accept this status report (no action necessary at this time).

DISCUSSION:

The flat 0.34-acre property is a flag lot with 25 feet of frontage along Mission Boulevard, just north of Overhill Drive. (See attached location map.) The site contains the dog kennel, a single-family dwelling, a detached office, a pumphouse, and parking and yard areas. A veterinary clinic and a tire shop separate the kennel from Mission Boulevard. Three single-family dwellings are situated to the east of the kennel off Greeley Court, a private street.

The use permit to operate the Hayward Pet Complex was approved in September 1994. Due to concern expressed at the Planning Commission hearing by neighbors, the Planning Commission added a condition of approval that required staff to report back to the Commission regarding the kennel operation. The kennel operator subsequently began operating and submitted a request to allow for an extension of the time limits to comply with the some of the conditions of approval, which was granted. At the time, the private street had not been re-paved, the Greeley Court street sign had not been installed, and the drainage system was not in place, all of which were to have been accomplished before onset of the business. Since that time, the City has been working closely with the applicant towards fulfillment of conditions. In August 1998, the City issued a letter to the applicant stating that they had met all the conditions, except Condition No. 5 relating to property drainage. Condition No. 5 states

A drainage plan must be provided that meets the approval of the Planning Director, including the establishment of any appurtenant easements which must be obtained to properly discharge the drainage entering the site. The drainage plan shall address both its drainage and also any drainage entering the site from the natural flow of abutting properties. Drainage improvements shall be installed before onset of business.

Although it appears that the property drains adequately, the drainage system that was installed was **not** approved by the Planning Director and, in fact, encroaches on an adjacent property without that property owner's express permission. To date the drainage issue has not yet been resolved between the kennel site property owner, Dr. Salwan, and the adjacent property owner to the north, Ms. Kalvans. The drainage from the kennel site currently drains through new pipes that Dr. Salwan had installed within the past two years along the southerly edge of Ms. Kalvan's property and out to Mission Boulevard. A drainage encroachment has apparently been there for many years, but without a formal easement or approval from Ms. Kalvans. Therefore, the Planning Director is not in a position to approve the current drainage system. If the easement issue is not resolved between the property owners, either between themselves or through the courts, an alternative drainage system must be provided, which most likely would direct drainage along Greeley Court and out to Mission Boulevard. Technically, the kennel is operating without meeting all conditions of approval.

Approximately one year ago, staff surveyed surrounding property owners and occupants regarding the compatibility of the kennel operation with the neighborhood. Because of the relatively narrow access road (Greeley Court), there are occasionally parking and access conflicts, which allegedly occur due to unacceptable parking by both Greeley Court residents and visitors to the kennel. Some of the residents park large vehicles, including large trucks, and delivery trucks visit the kennel site on occasion. Some adjacent residents said they frequently hear dogs barking, however all the residents themselves own dogs that occasionally bark. When staff visited the kennel, there were no dogs barking until staff entered the area where the dogs are caged. Animal Control and Planning staff have visited the site on several occasions and observed that the facility is maintained in a clean manner and the dogs appeared content.

Although the kennel operator has met the condition of approval requiring re-paving Greeley Court, the paving is again in need of repair, particularly near Mission Boulevard which gets the most traffic. Parking stalls also need re-paving. The kennel operator has expressed an interest in entering into mediation with surrounding property owners to settle on an equitable means of re-paving the street. However, the lot upon which the kennel is situated and the stem of the lot (Greeley Court) is a separately recorded parcel owned by Dr. Salwan. Therefore, the burden of maintaining the private street falls upon the property owner unless he is able to show through a search of the property titles of abutting parcels that there are agreements that they will participate in maintaining the private street in exchange for access over the private street.

PUBLIC NOTICE:


On February 14, 2000, a notice of this hearing was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records, and occupants.

CONCLUSION:

Due to the unresolved drainage issue between the two adjoining property owners, staff is unable at this time to provide the Planning Commission with a complete recommendation to

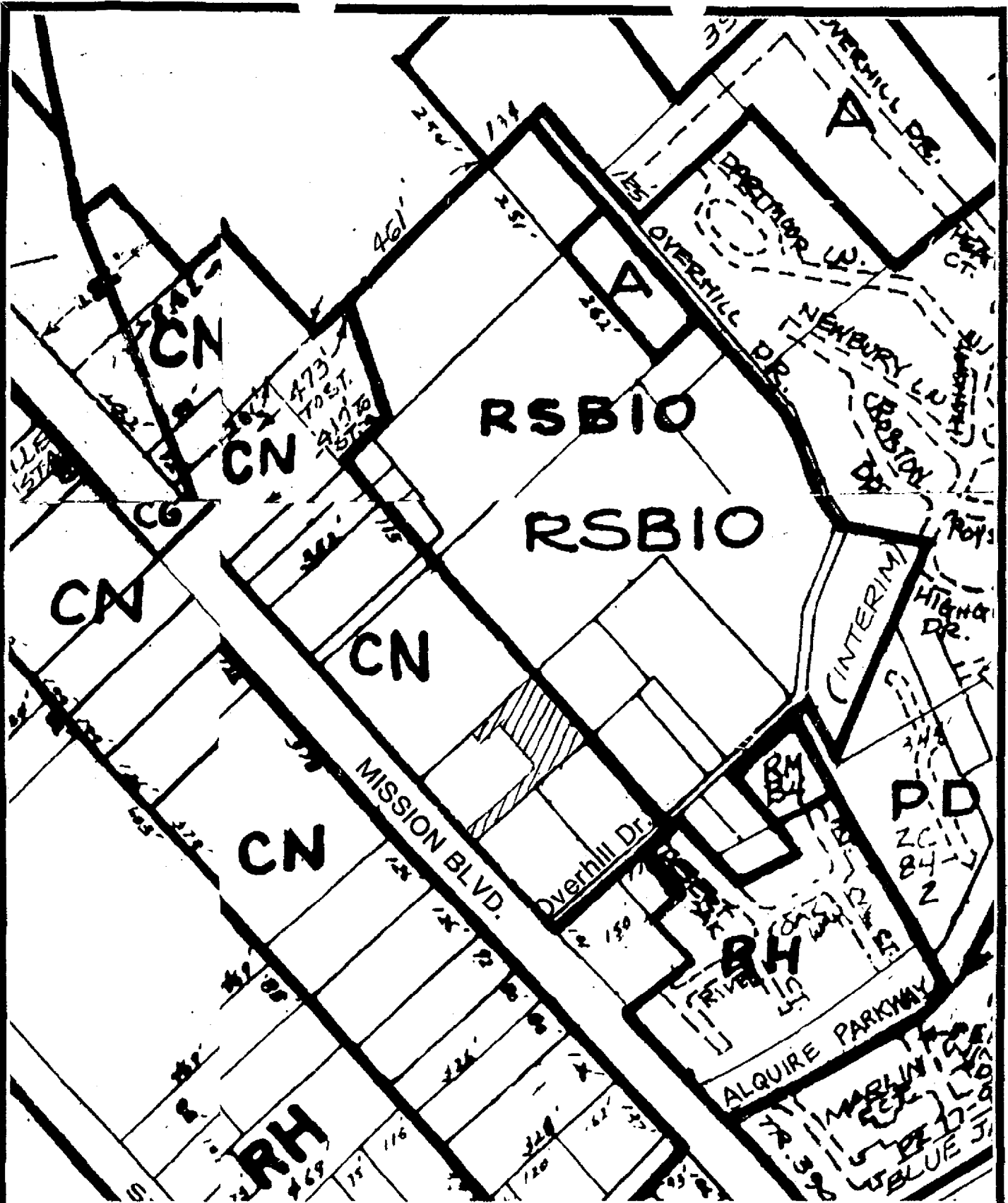
determine use permit compliance. If an easement is not obtained for drainage within the next four months, staff will advise the property owner that an alternative drainage system must be in place or the use permit will be subject to revocation for failure to meet all conditions of approval. Also, it is the property owner's responsibility to provide safe travel to the kennel, which includes roadway access without potholes. Staff will also ensure that the property owner provides a safe travel lane.

Prepared by:


Dyana Anderly, AICP
Planning Manager

Attachment:

Area Map for AUP 94-57



NORTH

AREA MAP

AUP 94-57



Paula Cook (Appl)
Howard & Jane McFaul (Owner)
619 Greeley Ct.